National Appropriate Adult Network

NAAN | Briefing

Liaison & diversion and the provision of appropriate adults for mentally vulnerable adults

April 2014

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About NAAN

NAAN is the national body for appropriate adults, a membership organisation and a registered charity. Our mission is to gather, develop and share knowledge, skills and standards that inform, inspire and support effective appropriate adult policy and practice. We set national standards, provide guidance and training, support volunteering, conduct research and inform policy making. Our vision is that every vulnerable adult and child and detained or interviewed by police has their rights and welfare safeguarded effectively by an appropriate adult.

About Appropriate Adults

1. When detaining or questioning a child or 'mentally disordered or mentally vulnerable' adult, such as a person with learning disabilities or on the autistic spectrum, the police must secure an Appropriate Adult (AA) to safeguard their rights and welfare (PACE 1984 Codes of Practice). AAs do not have a role in s.136
2. This briefing relates to AA provision for *adults only*. There is a statutory duty to provide AAs for children (Crime & Disorder Act) and Youth Offending Teams do so whenever a parent is unavailable, unwilling or unsuitable. Despite the similar requirement for AAs for vulnerable adults, there is no statutory duty to provide one.
3. If police have *any doubt* about the mental state or capacity of a detainee, they may not proceed with normal criminal justice procedures (e.g. identification procedures, searches, interviews). without an AA being present. Breach of this rule may render evidence inadmissible in court.

4. The AA has a complex and important role that is distinct from any other in custody. They provide support, advice and assistance to vulnerable adults regarding rights (e.g. right to free legal advice) and welfare (e.g. access to food and drink). They ensure fair treatment (e.g. no aggressive interrogation or encouragement to confess), facilitate communication and check understanding (e.g. rephrasing complex interview questions). They exercise specific powers such as: inspecting the custody record; securing legal advice (even where it has been declined); securing breaks in interviews (e.g. when a person is suffering from high levels of anxiety) and making representations to the police regarding continued or extended detention.
5. Under PACE Code C the AA can be: the vulnerable adult's carer; someone experienced with mentally vulnerable people; or failing these, *any responsible adult* who is not a police employee, a solicitor, or involved in the investigation (e.g. a witness). There are some organised schemes of staff and community volunteers who are trained as professional AAs.

Poor identification of mental vulnerability means AAs are often not requested

6. Current rates of identification by police of mental vulnerability are very low. An analysis of 21,000 custody records found that an AA was used in only 38 (0.016%) of cases (Bradley Report).
7. Police are more likely to identify mental vulnerability where effective AA schemes exist. Custody sergeants make pragmatic decisions not to identify vulnerability if securing an AA is problematic.
8. The CJJI thematic inspection on learning disability (January 2014) concluded, "The identification, assessment, referral and diversion of offenders with learning disabilities, and the provision of Appropriate Adults, depend on the ability of police and other custody staff to recognise learning disability." It also found AAs were not always called, even when learning disability was recorded.

AA services for adults are patchy and being cut

9. Provision is patchy and inconsistent geographically and during the day. Quality is not accurately known. Legally, anyone can be an AA with no requirement for training or quality control.
10. Some police forces and AA schemes have already advised NAAN that funding for vulnerable adult AA services will end in April 2014 in light of budget pressures.

Liaison & Diversion will increase identification, requiring increased AA provision

11. Liaison and diversion services (L&D) will increase identification of mentally vulnerable adults. This will increase demand for AAs, which will not be met by current provision.
12. If a custody sergeant is sufficiently concerned to make a referral to L&D, an AA is required. Lack of AA provision may disincentivise police engagement with L&D, since once they are involved, police will not be able to make a pragmatic decision to not identify vulnerability (see point 7).
13. Where vulnerability *is* identified and AA services do not exist, mentally vulnerable people are likely to spend longer in custody and have an AA who is unfamiliar with the role. Legally, police may (and do) ask people on the street, who are untrained and unfamiliar, to act as AA.
14. Given the challenges inherent in securing statutory provision, and current financial pressures, an expedient solution may lie in local/regional co-commissioning, pooling the budgets of relevant partners including; Adult Social Services, Mental Health Trusts, police, Police and Crime Commissioners, and any other relevant bodies.